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From: FEDweek Weekly Newsletter
Sent: Wed 5/18/2016 1:41:00 PM
Subject: FEDweek Weekly Issue: May 18, 2016

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Wednesday, May 18, 2016

In Case You Missed It. Most Widely Read News Item

Higher Buyout Maximum Proposed

The Obama administration has proposed boosting the maximum buyout payment for federal employees to \$40,000, saying that the \$25,000 maximum in effect since the first buyouts began is no longer a sufficient incentive. More details at <http://www.fedweek.com/fedweek/higher-buyout-maximum-proposed/>

Background Checks to Include Examining Social Media

Checking of publicly available postings on social media will become a standard part of background checks on federal employees for new or renewed security clearances, under an Obama administration policy decision. More details at <http://www.fedweek.com/fedweek/background-checks-include-examining-social-media/>

Policy Comes with Several Protections

The government will not request or require individuals to provide passwords or log into private accounts, turn over private emails, or otherwise disclose social media information not publicly available, under the policy, announced by the Office of the Director of National Intelligence. Those restrictions were designed to address privacy concerns, as were other provisions such as promises: not to retain information on the individual not pertinent to clearance eligibility; that the government will stick to traditional standards for eligibility and not also include, for example, information turned up about political contributions; that agencies will not create social media accounts or use existing ones for the purpose of connecting to the individual; that no unfavorable personnel actions will be taken based only on uncorroborated information collected in such searches; and that information turned up in those searches on other persons will not be pursued unless a national security or criminal concern is involved. However, at the hearing a variety of concerns were raised nonetheless, including how long the government would keep the raw information turned up in a search, the need for a human role in distinguishing between people with the same name,

and the potential cost, which was estimated as high as \$500 per search.

Some Questions Still to Be Answered

Administration officials were not specific regarding when such scrutiny would start, noting that OPM hopes to start a pilot project in the fall that will address issues such as when in the checking process such searches should be made, whether the costs can be reduced, whether conducting the searches will slow down the overall process, and how useful such information proves to be. Several pilot programs already have been conducted or are underway at defense and intelligence agencies that were more limited. Some members of the committee meanwhile raised the prospect of expanding the policy to require that employees being investigated disclose any aliases they use in online postings; the policy as issued would not require that. Officials said the policy likely will evolve over time and that such a requirement could be one such change, but not soon. For a closer look, go to <http://www.fedweek.com/reports>.

White House Opposes Administrative Leave Restrictions

The Obama administration has objected to a move in Congress to restrict use of administrative leave, paid time away from the workplace commonly used when employees are being investigated for possible disciplinary actions. The opposition came in comments on the House version of the annual DoD authorization bill, now undergoing floor voting. The bill would generally ban any agency from putting employees on administrative leave in disciplinary cases for more than 14 days in a one-year period; similar language is in a separate House-passed bill and in a recently introduced Senate bill of VA personnel reforms. A White House statement said the provision "substantially limits federal agencies' discretion, would be administratively burdensome, and, in many cases, would not allow time for the agency to thoroughly investigate and adjudicate issues in a legally defensible manner due to many factors." The language "could also pose safety and national security issues, as it would restrain an agency's use of administrative leave in conjunction with a proposed adverse action and where an agency believes the employee may otherwise pose a threat to safety and security in the workplace, or to the proper safeguarding of sensitive information or operations." The administration also opposed a provision in the DoD bill—also recently passed as a separate bill by the House—to require that adverse findings in disciplinary investigations become a part of an employee's record if the employee resigns in the meantime, and that agencies would have to review prior personnel files when considering hiring a former federal employee. That "would be difficult to implement because it is unclear what would be expected of an agency under these circumstances since they are often precluded from taking any disciplinary action against individuals who are no longer employed by the agency." It said the result would be "placing a notation in an individual's official personnel file based on what may be an incomplete investigation, and without a full determination by the agency that an adverse personnel action would have been warranted."

Disputes Also Arise over Raise, Other Issues

Also, the White House opposes language in the House version to set the January military raise—which often acts as a marker for the civilian federal employee raise determined later—at 2.1 percent, rather than its recommended figure of 1.6 percent. The Senate has drafted its version of the bill but has released only sketchy details, although it has specified that it version endorses the White House recommendation. The White House also objected language in the House bill to require DoD to pay the full daily per diem rate for temporary duty exceeding 30 days; a lowered level has been in effect since 2014, designed to encourage the use of cheaper, extended-stay type lodging in such situations. The Senate version apparently would leave reimbursement policy up to individual DoD components. The White House also again called for creation of commission to lay the groundwork for consolidating or closing bases and smaller facilities, similar to those of the past that resulted in the loss or transfer of many thousands of DoD civilian employees. The House bill rejects that plan although an amendment is to be offered during floor voting in favor of one.

Expert's View: The Early Retirement Decision

There's more to a deciding whether to take an early retirement offer than how much you'll get in their annuity if you accept it, writes benefits expert Reg Jones. You'll find his column at <http://www.fedweek.com/reg-jones-experts-view/early-retirement-decision/>

VA Personnel Changes Could Move Quickly

Senate leaders on veterans' issues say they hope to move quickly to enact a bill, possibly as soon as the end of this month, to overhaul many VA policies including restricting appeals rights of employees there. The Veterans Affairs Committee passed on a bipartisan vote S-2921, which includes those provisions along with changes in veterans' benefits. The bill would shorten the disciplinary and appeals process for all VA employees, giving them only 10 business days rather than 30 calendar days of notice, and a similar 10 days each to answer the charges within the agency and to appeal to MSPB once an action is taken. The MSPB would have to process the case, both at the hearing officer and full board levels, within 90 days. However, it is unclear what would happen if that deadline passes, and employees would retain the right to appeal into federal court. Employees further would be ineligible for awards while discipline against them is being considered; awards already paid would have to be repaid if discipline later is taken related to the pertinent time; and reprimands and admonishments would remain in an employee's record for at least three years unless removed earlier, and removed automatically after five years.

More Restrictions on VA Executives Planned

The Senate bill is in part a response to dissatisfaction on Capitol Hill with the outcome of a 2014 law that restricted rights of VA senior executives, several of whom have been reinstated by the MSPB on appeal nonetheless. Under that law, the disciplinary time limits for them are shorter, the agency wins by default if a 21-day MSPB deadline to decide the case isn't met, and there is no further right to appeal. The bill would instead allow appeals only to internal review boards; those appeals would have to be filed within 10 days and a decision would then have to be made within 21 days. There would be no right of appeal from there to MSPB, although appeals into federal court would be allowed. Also, under limited circumstances, the period in which misconduct occurred would not count toward retirement benefits. Further, SES-level medical directors and directors of Veterans Integrated Service Networks would be put under the separate Title 38 personnel system that now applies only to medical professionals, allowing the VA to pay them higher salaries if needed to compete with the private sector in those positions.

VA Changes Could Set Precedent for Other Agencies

The potential wide-ranging changes in disciplinary and other policies at the VA--the measure also would boost protections for whistleblowers, for example--are widely seen as a precedent for imposing similar changes government-wide. VA's nearly 370,000 employees represent about a fifth of the overall non-postal federal workforce and there are frequent arguments against such basic policies differing among agencies. However, the House counterpart committee has been advocating a series of bills that would be even stricter, leaving fast action in question. In 2014, the House had passed a bill that essentially would have deprived senior executives at the VA of any appeal rights but the language was softened in a conference with the Senate. Those provisions regarding senior executives likewise were seen as setting precedent for government-wide changes, based on similar reasoning. However, proposals in the years since to widen them to other agencies have not been enacted. With relatively little working time remaining for Congress already on this election year, it is questionable whether a wide-ranging federal personnel reform would be attempted this year.

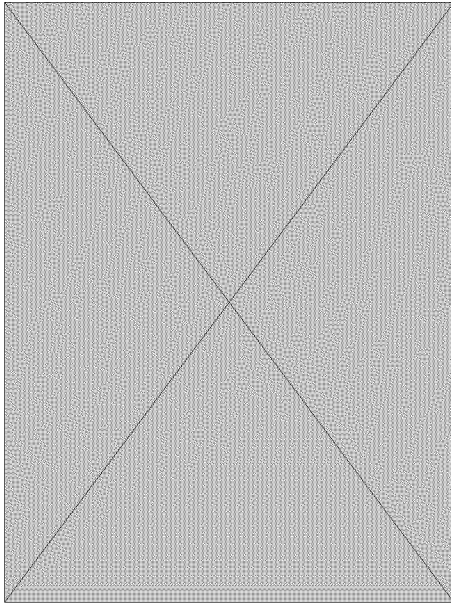
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